

Item _____

Prepared by: Mike Ritz

Approved by: _____
Shelby County Attorney

RESOLUTION OF THE SHELBY COUNTY BOARD OF COMMISSIONERS TO REQUEST AND AUTHORIZE THE COUNTY ATTORNEY TO EXPLORE, STUDY AND REPORT ON THE EMPLOYMENT OF OUTSIDE COUNSEL AND NECESSARY PUBLIC FINANCE CONSULTANTS TO FILE SUIT AGAINST THE STATE OF TENNESSEE FOR FAIR AND EQUITABLE STATE FINANCING OF PUBLIC SCHOOLS IN MEMPHIS AND SHELBY COUNTY.SPONSORED BY COMMISSIONER MIKE RITZ

WHEREAS, The State of Tennessee has not adequately and fairly funded the Memphis and Shelby County School Systems (The School Systems) for many years; and

WHEREAS, Recent research has found specific unfairness in state funding of The School Systems for the fiscal year (FY) 2005 (school year 2004-2005) and FY2006 (school year 2005-2006); and

WHEREAS, The Local Funding (funds from Shelby County Government and the City of Memphis) of The School Systems exceeded state funding of the School Systems by over \$90,000,000 in FY2005 and over \$145,000,000 in FY2006, while on a Tennessee wide basis all local school funding is less than all state school funding; and

WHEREAS, In FY2005 state funding of all public schools in Tennessee averaged \$3215 per Average Daily Membership (The sum of total number of days enrolled divided by the number of days taught) (ADM) and for The School Systems averaged \$2998 per ADM resulting in a difference of \$217 per ADM or a total difference in funding of \$35,285,936 for FY2005; and

WHEREAS, In FY2006 state funding of all public schools in Tennessee averaged \$3318 per ADM and for The School Systems averaged \$3118 per ADM resulting in a difference of \$200 per ADM or a total difference in funding of \$32,516,000 for FY2006; and

WHEREAS, The ability of a government to receive taxes can be measured in a not insignificant way by Total Property Assessments (a measure of a government's taxpayers wealth) and by Sales Tax Collections (a measure of a government's taxpayers ability to pay); and

WHEREAS, The Total Property Assessments for Shelby County were \$105,470 per ADM for FY2005 and \$107,433 per ADM in FY2006 while the Total Property Assessment of all of Tennessee were \$117,070 per ADM in FY2005 and \$124,375 per ADM in FY2006, a difference of 11.0% and 15.8% respectively for FY2005 and

FY2006, thereby showing that Shelby County's taxpayer wealth is less compared to all of Tennessee; and

WHEREAS, The Total Sales Tax Collections for Shelby County were \$6,648 per ADM in FY2005 and \$6,992 per ADM in FY2006 while the Total Sales Tax Collections for all of Tennessee were \$8,382 per ADM in FY2005 and \$8,868 per ADM in FY2006, a difference of 26.1% and 28.3% respectively for FY2005 and FY2006, thereby showing that Shelby County's taxpayers have lower disposable income compared to all of Tennessee; and

WHEREAS, ADM as a percentage of total population is a relative measure of public school funding needs and ADM per 1,000 people in Shelby County was 180 (180 public school students per 1,000 citizens) in FY2005 and 178 in FY2006 versus the ADM per 1,000 people for all of Tennessee was 155 for FY2005 and 155 for FY2006, showing increased need for state public school funding in Shelby County compared to all of Tennessee; and

WHEREAS, On a year to year basis the Local Funding of The School Systems is growing faster in Memphis and Shelby County than a total local funding by other local governments in Tennessee indicating the willingness of Memphis and Shelby County to increasingly support The School Systems; and

WHEREAS, On a year to year basis the Total Property Assessments/ADM and the Total Sales Tax Collections/ADM are growing faster in all Tennessee Counties and Cities than in Memphis and Shelby County further stressing the local taxpayers burden of supporting The School Systems; and

WHEREAS, The Shelby County Board of Commissioners annually appropriates 100% of the Local Funding for Shelby county Schools and the majority percentage of Local Funding for the Memphis City Schools (there has been an annual approximate \$80,000,000 appropriation from the City of Memphis to the Memphis City Schools); and

WHEREAS, The County of Shelby as of July 1, 2007 had total bonded indebtedness of \$1,782,004,281 of which \$1,155,445,388 or 64.8% was for public school construction; and

WHEREAS, The current property tax rate in Shelby County is \$4.04/\$100.00 of assessed value (\$4.09 outside of Memphis), which rate is the highest County property tax rate in the State of Tennessee; and

WHEREAS, The Shelby County appropriation for The School System operating expense represents 32% of the current FY2008 County Budget and the Shelby County appropriation for bonded indebtedness for public schools is another 9% of the County Budget for a total public school share of the County Budget of 41%; and

WHEREAS, Prospective fiscal year budgets show increased needs for operating expenses and capital expenses especially for deferred maintenance for The School Systems, which will further burden Shelby County taxpayers; and

WHEREAS, Shelby County Board of Commissioners understand the need for fairness and adequacy of state Public School Funding; and

WHEREAS, Similar analysis concludes there is also inadequate and unfair state funding of the urban public school systems in Knox County, Hamilton County, Davidson County and Williamson County for FY2005 and FY2006 and considerably more local funding than state funding of the local public schools in each of those urban school jurisdictions but however each of these four systems have Total Property Assessments and Total Sales Tax Collections far in excess of the similar figures for all of Tennessee and considerably less ADM/population than Shelby County.

NOW, THEREFORE BE IT RESOLVED By the Shelby County Board of Commissioners of Shelby County, Tennessee that the Shelby County Attorney explore, study, and report on the employment of outside counsel, and necessary public finance consultants to assist said outside counsel, to file suit in the appropriate state or federal court against the State of Tennessee seeking immediate current and perpetual fair and adequate state funding of The School Systems and reimbursement of past unfair and inadequate state funding; and

BE IT FURTHER RESOLVED That the current fair and equitable funding and the past reimbursement sought from the state be determined by the outside counsel and the County Attorney with consideration be given to (1) requiring future annual state funding for The School Systems be no less than annual local funding (this calculation would have brought an extra \$91,950,754 to The School Systems in FY2005 and \$146,379,70 in FY2006) but that specifically no less than the State Average ADM funding for all state schools (\$32,868,773.00 plus interest for FY2005; no less than \$30,320,400.00 plus interest for FY2006); (2) that the State reimburse the County for paying the State's past unfair under funding for FY2005 and FY2006 and to-be-specified amounts for FY2007 and fiscals prior to FY2005; (3) damages to The School Systems for the historical unfair funding actions of the state; (4) requiring the net proceeds of this legal action relative to past unfair state funding be paid to Shelby County to reimburse the County for past financial burdens on the County and to assist the County in future funding The School Systems with the understanding that Shelby County will use these funds to pay down outstanding Shelby County debt for past school construction and deferred maintenance; and (5) requiring the state to provide future payments to The School Systems that are properly and fairly calculated and funded; and

BE IT FURTHER RESOLVED That the County Attorney and Outside Counsel may, upon consent of the three elected bodies, join with other local urban school districts in Tennessee and/or their respective Count Governments in this lawsuit as long as the difference in taxpayer ability to pay of Shelby County versus the other urban districts will

be understood as a uniqueness to Shelby County for which Shelby County will seek special consideration and that Shelby County will remain the lead litigant in the lawsuit.

BE IT FURTHER RESOLVED That the County Attorney report back to the Shelby County Commission relative to the merits and appropriateness of this potential lawsuit within 45 days of the County Commission's adoption of this resolution.

A C Wharton, Jr.
Shelby County Mayor

ATTEST:

Clerk of County Commission

Adopted: _____